

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

SBRMCOA, LLC, individually and on)	
behalf of its members,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 2006-42
)	
BAYSIDE RESORT, INC.; TSG)	
TECHNOLOGIES, INC.; TSG CAPITAL, INC.;)	
and BEACHSIDE ASSOCIATES, LLC,)	
)	
Defendants.)	
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APPEARANCES:

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Hodge & Francois
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For SBRMCOA, LLC,

Arthur Pomerantz, Esq.

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For Bayside Resort, Inc.,

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Alexandria, VA

*For TSG Technologies, Inc.; TSG Capital, Inc. and Beachside
Associates, LLC,*

AMENDED ORDER¹

GÓMEZ, J.

Before the Court is the writ of mandamus issued by the United States Court of Appeals for the Third Circuit.

The Third Circuit's mandate directed the Court to consider "whether the Water Supply Agreement constituted an unauthorized amendment [to SBRMCOA's Declaration], and, based upon this determination, whether the Board was authorized in law and fact to enter into the Water Supply Agreement." *SBRMCOA, LLC v. Bayside Resort, Inc.*, 596 Fed. App'x 83 (3d Cir. 2014).

The Court finds that the Board engaged in *ultra vires* conduct with respect to some provisions in the Water Supply Agreement. The Court, however, does not find that the Board engaged in *ultra vires* conduct with respect to the arbitration provision in the Water Supply Agreement.

The premises considered, it is hereby

ORDERED that this matter is referred to arbitration.

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Curtis V. Gómez
District Judge

¹ The order entered on March 31, 2016, included an incorrect citation to the relevant Third Circuit mandate. That oversight has been corrected in this amended order.